

# MINUTES OF THE SHAWNEE COUNTY PLANNING COMMISSION

Monday, November 14, 2011  
Shawnee County Annex  
7:16 PM

**Roll Call and Announcement of Hearing Procedure:** After the Board of Zoning Appeals adjourned, Chris Bortz, Chairman, called the meeting to order stating members would be reconvening as a Planning Commission.

**Members Present:** Brian Jacques, Lynn Marolf, Dave Macfee, and Chris Bortz. With four members present a quorum was established and the meeting was called to order.

**Members Absent:** None.

**Staff Present:** Barry T. Beagle, Planning Director, Gloria Obregon, Administrative Assistant and Aimee Betzen, Assistant County Counselor.

**Approval of October 10, 2011, Public Hearing Minutes:** Mr. Marolf moved for Approval, second by Mr. Jacques and with a unanimous voice vote the October 10, 2011 minutes were approved.

**Communications:** There were no communications of staff.

**Ex Parte Communication by Members of the Commission:** There were no Ex Parte communications expressed by members of the Commission.

**Declaration of Conflict of Interest by Members of the Commission or Staff:** There were no Declarations of Conflict of Interest expressed by members of the Commission or staff.

## **Public Hearing:**

No Agenda Items

## **Public Comment on Non-Agenda Planning and Zoning Items**

None.

## **Discussion of Planning Related Issues**

### **1. Amendment To Fence Regulations**

Mr. Beagle stated he has done some preliminary research on other Kansas counties as to fence regulations and they appear to be varied. He had accessed 23 other county regulations online and what he found was that no one treats fences the same way as Unincorporated Shawnee County with regard to front-yard fence heights. He explained front-yard meaning the fence height extending beyond that of the front-face of the dwelling. He said 11 of 23 Kansas counties contain information similar to what Shawnee County has, while the others deal with fence regulations tied to a specific use.

He said he would work toward presenting a draft proposal for commissioners at the December 12, 2011 public hearing.

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Mr. Roger Crouch, 5020 SE Adams Street, Topeka, KS spoke to commission members asking them why there is discussion about fence amendments at this time, when there is already an on-going fence issue between homeowners that the County Counselor's office is aware of. He asked if fence regulations were changed, what would happen to the person that has a problem with the County.

Mr. Jacques responded informing Mr. Crouch looking at the fence regulations are to assure there are fence regulations that apply equally to everyone.

Mr. Crouch inquired as to how height measurements are interpreted, from the ground to the top of the fence, or to the fence board itself. Mr. Beagle said it is applied from grade to the height of the board.

Mr. Marolf asked Ms. Betzen what the status was of the fence issue Mr. Crouch spoke on. Ms. Betzen gave an updated status to commission members and commented if the fence regulations were amended, it could make that case moot. She also said the time frame for the case depends upon the courts and the legal process and it could be a lengthy process.

Commission members and staff further discussed how a fence height is measured, the goal to have equally applied fence regulations and that the permitting process is a paper-based process. Mr. Beagle said staff is unaware if there is a slight disparity in a fence height that was permitted and approved, and what has been actually established, but addresses the issue when the public calls to file a complaint. He also relayed there is no building code and in the absence of a code there are no site inspections, which leaves applicants with the honor system to build as what is proposed and approved on paper.

**2. Proposal To Initiate Multi-Parcel Reclassification of Land**

Mr. Beagle discussed an area-wide zoning change the Planning Commission is going to be requested to initiate with respect to the Kanza Fire and Commerce Park, located at Gary Ormsby Drive off SW Topeka Boulevard. He provided background about a previous zoning case that Planning Commission members reviewed and approved reclassification of 400 acres to the "I-2" Heavy Industrial District in 2009, with another 600 acres under option by Go Topeka. As a result of the Mars Company coming to Topeka and Shawnee County, projected growth patterns were looked at. Noting current companies that are doing business in Topeka and the potential for attracting future companies, Go Topeka saw this area as the economic development engine carrying Topeka forward for decades.

The Planning Commission will be requested to initiate an area-wide zoning change that will include over 3,800 acres of land proposed to be rezoned. The Planning Commission will be initiating the zoning reclassification in lieu of the County Commission who will ultimately sit in judgment of the zoning reclassifications. The rezoning will consist of 18 areas and the item will come up for discussion at the December 12, 2011 public hearing when commission members will initiate the zoning change. The Chamber of Commerce is a major partner in the rezoning process, and staff will be providing information to commission members noting the objectives for rezoning. Mr. Beagle said the initiation is the starting point or concept which will provide for expansion of the industrial areas and recognizes residential areas throughout the area and will try to buffer them to the greatest extent possible.

Mr. Beagle said the rezoning project may appear before commission members as early as February 2012, and there will be a grandfather mechanism, which will be part of the zoning change. That provision will protect the interest of some residential properties. Members and staff talked about how the areas to be rezoned were derived, and that the Chamber of Commerce wanted to minimize the conflict with residential parcels as much as possible. It is estimated that approximately 80% or more of the proposed areas are slated for a higher

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intensity industrial zoning. During the public hearing process and based upon public comments commission members could adjust the zoning downward, but they could not intensify or take the zoning up.

Mr. Beagle said there will be 2 difference protesting classes of properties that will be created by virtue that the proposal is a commission initiated zoning change as opposed to a private property owner zoning change. He also explained the notification area for property owners and their rights to a formal protest. Due to the scale and scope of the project it is anticipated there will be 3 public hearings as there are 18 difference areas. Staff is looking at grouping them into 6 areas, breaking down the public hearings into 3 meetings, but there could be more public hearings, if commissioners deemed it was necessary. There will be additional information mailed to property owners along with the public hearing notification letter, explaining the zoning process. Staff and the Chamber of Commerce will also host 3 open house events prior to the Planning Commission public hearings to provide property owners the opportunity to ask questions. Planning, the Chamber of Commerce along with Go Topeka is trying to be proactive by providing information for the public even before the Open Houses commence. Providing commission members data in a digital format was talked about.

Mr. Beagle stated Rich Eckert is extending an offer to meet with commission members to review specific goals and objects of the proposed zoning change and provide as much information as possible. Mr. Beagle is anticipating providing information to commission members in their December agenda packet.

**Adjournment:**

Mr. Marolf moved to adjourn, second by Mr. Jacques and with a unanimous voice vote the Planning Commission public hearing ended at 8:00 p.m.